

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT*A Tradition of Service*

DATE: March 1, 2011

OFFICE CORRESPONDENCE

FILE NO. FO2267633

FROM: ERIC B. SMITH, COMMANDER
LEADERSHIP AND TRAINING DIVISION

TO: JOSEPH M. GOODEN, CAPTAIN
INTERNAL AFFAIRS BUREAU

SUBJECT: **EXECUTIVE FORCE REVIEW COMMITTEE DISPOSITION:
STEVEN G. MILLER # [REDACTED]
TWIN TOWERS CORRECTIONAL FACILITY**

At approximately 1915 hours, Deputy Steven G. Miller # [REDACTED] was involved in a use of force while attempting to subdue a combative inmate resulting in the inmate sustaining a fractured wrist.

Deputy Miller was escorting Inmate Hernandez from module 172 to the Tower One transfer center because Hernandez was being declassified and rehoused at Men's Central Jail.

Once inside the transfer center, Deputy Miller separated Inmate Hernandez from the other inmates because Hernandez is a [REDACTED]. Deputy Miller directed Inmate Hernandez to face the wall and Hernandez refused. Deputy Miller repeated his order, again directing Hernandez to face the wall. Hernandez responded by turning to his left and striking Miller in the ribs with his left elbow. Deputy Miller responded to the assault by grabbing Hernandez by his shirt and taking him to the floor. During the takedown Hernandez struck the left side of his face on the floor. While Inmate Hernandez was on the floor he again used his left elbow to try and strike Deputy Miller in the ribs. Fearing he was going to be struck again, Deputy Miller punched Inmate Hernandez in the mouth one time with his right fist. Inmate Hernandez was then handcuffed without further incident.

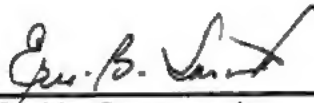
Inmate Hernandez was treated for a small laceration above his left eye, a small laceration on the left corner of his mouth, and an abrasion on the center of his forehead. During subsequent examination and treatment it was determined that Inmate Hernandez' right wrist was broken, presumably during the controlled takedown effected by Deputy Miller.

On February 24, 2011, the Executive Force Review Committee convened and conducted a review regarding the facts of this case. The applicable policies that were evaluated by the committee were: MPP §§ 3-01/025.00, Use of Force; 3-01/025.10, Unreasonable Force; and 3-01/050.10, Performance to Standards.

Concerning:

MPP § 3-01/025.00, Use of Force, and MPP § 3-01/025.10, Unreasonable Force, the Committee determined that the force used by Deputy Steven G. Miller # [REDACTED] was reasonable and necessary and in compliance with Department policy.

MPP § 3-01/050.10, Performance to Standards, the Committee determined that the tactics employed by Deputy Miller in this incident were within Department Policy.



Eric B. Smith, Commander

EBS:RSP/rsp

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IAB Investigative Narrative

Exhibits:

- A- Incident and Supplemental Reports under file #910-00733-5800-145
- B- Printout of Suspect Hernandez's Criminal History
- C- Transcripts

Miscellaneous Documents

Internal Affairs Bureau- Mandatory Notification Form
Administrative Rights Force/Shooting Review Forms
Twin Towers Correctional Facility Daily In-Service 05-25-2010
Photographs
Department Training Records for Deputy Steven Miller
Inmate Injury Report for Marcos Hernandez
Radiology Exam Report for Marcos Hernandez

Los Angeles County Sheriff's Department

Supervisor's Report on Use of Force

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Incident Information											
URN: 9 1 0 - 0 0 7 3 3 - 5 8 0 0 - 1 4 5					Date: 5/25/10		Time: 1915				
Location:		450 Bauchet Street, Los Angeles, CA				City or Station:		Los Angeles			
Bureau/Station/Facility:		Twin Towers Correctional Facility				Admin. Investigation:		YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>			
Type of Force:		Significant Force/ Personal Weapons									
Deputy Injury : YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>			Suspect Injury YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>								
<input type="checkbox"/> Call		<input checked="" type="checkbox"/> Observation		<input type="checkbox"/> Detail		<input type="checkbox"/> Foot Pursuit		<input type="checkbox"/> Vehicle Pursuit			
IAB Notified: YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		Person Notified:		Lt. Brickert		Emp: [REDACTED]		IAB Roll Out: YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>			
Involved Employee											
E 1	Employee # [REDACTED]		Last Name		Miller		First Name		Steven		
	Sex:		Race:		Unit of Assignment:		Work Assignment (Unit #, Module, etc.):				
	<input checked="" type="checkbox"/> Male <input type="checkbox"/> Female		W		TTCF						
	Shift:		<input checked="" type="checkbox"/> Regular Shift		<input type="checkbox"/> OT Shift		<input type="checkbox"/> Off Duty		Age: [REDACTED]		
<input type="checkbox"/> EM		<input type="checkbox"/> Day		<input checked="" type="checkbox"/> PM				Height: 506		Weight: 130	
<input type="checkbox"/> Injured <input type="checkbox"/> Treated <input type="checkbox"/> Admitted Hospital:						Coroner Case #		Directed Force <input type="checkbox"/>		Significant Force <input checked="" type="checkbox"/>	
E	Employee #		Last Name		First Name		Middle Name				
	Sex:		Race:		Unit of Assignment:		Work Assignment (Unit #, Module, etc.):				
	<input type="checkbox"/> Male <input type="checkbox"/> Female										
	Shift:		<input type="checkbox"/> Regular Shift		<input type="checkbox"/> OT Shift		<input type="checkbox"/> Off Duty		Age:		Height:
<input type="checkbox"/> EM		<input type="checkbox"/> Day		<input type="checkbox"/> PM						Weight:	
<input type="checkbox"/> Injured <input type="checkbox"/> Treated <input type="checkbox"/> Admitted Hospital:						Coroner Case #		Directed Force <input type="checkbox"/>		Significant Force <input type="checkbox"/>	
E	Employee #		Last Name		First Name		Middle Name				
	Sex:		Race:		Unit of Assignment:		Work Assignment (Unit #, Module, etc.):				
	<input type="checkbox"/> Male <input type="checkbox"/> Female										
	Shift:		<input type="checkbox"/> Regular Shift		<input type="checkbox"/> OT Shift		<input type="checkbox"/> Off Duty		Age:		Height:
<input type="checkbox"/> EM		<input type="checkbox"/> Day		<input type="checkbox"/> PM						Weight:	
<input type="checkbox"/> Injured <input type="checkbox"/> Treated <input type="checkbox"/> Admitted Hospital:						Coroner Case #		Directed Force <input type="checkbox"/>		Significant Force <input type="checkbox"/>	
Additional Involved Employees <input type="checkbox"/>											
On Duty Supervisor											
Emp. # [REDACTED]		Last Name		Yocum		First Name		Michael		Middle Name	
Rank		Present		Witness to Incident		YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>			
Emp. #		Last Name		First Name		Middle Name		Rank		Present	
								YES <input type="checkbox"/> NO <input type="checkbox"/>		Witness to Incident	
								YES <input type="checkbox"/> NO <input type="checkbox"/>		YES <input type="checkbox"/> NO <input type="checkbox"/>	
Watch Sergeant											
Emp. # [REDACTED]		Last Name		Khasaempanth		First Name		Catrina		Middle Name	
Watch Commander											
Emp. # [REDACTED]		Last Name		Vega		First Name		David		Middle Name	

Watch Commander (Print Name)

Sgt. Albert Maldonado

Supervisor Completing Form: (Print Name)

Watch Commander's Signature:

Emp #:

Copy Provided to Employee by:

Emp #:

Date

Emp #:

Unit Commander (Print Name)

Unit Commander's Signature:

Emp #:

Date

DISCOVERY Use Only
FO#

Original: Discovery Unit

Copy: Unit Commander

SH-R-438P (Rev. 12/07)

Supervisor's Report on Use of Force SUSPECT INFORMATION

9 1 0 - 0 0 7 3 3 - 5 8 0 0 - 1 4 5

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S 1

Suspect Information									
Last Name		Hernandez		First Name		Marcos		Middle Name	
AKA Last Name				First Name				Middle Name	
Sex: <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	Race: H	Street Address:			City:		State & Zip Code:		
Work Phone:	Home Phone:	Age: 30	Height: 506	D.O.B: 02/11/80	Weight: 150	Armed? <input type="checkbox"/>			
Booking #: 2337334	Primary Charge Code: 459 P.C.		Secondary Charge Code:			Criminal History			
EMT in attendance? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		Name:		Unit:		Phone #:			
Hospital Admission? <input type="checkbox"/>		Rec'd Treatment At: TTCF Clinic			Coroner Case #:		Mental History <input type="checkbox"/>		
By Doctor:		Address:			Phone #:				
Under Influence: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		Substance:			Mental Illness <input type="checkbox"/>				

S

Suspect Interview									
Date:		Time:		Audiotape: <input type="checkbox"/>		Videotape: <input type="checkbox"/>		Photos of Injuries: <input type="checkbox"/>	

Suspect Information									
Last Name				First Name				Middle Name	
AKA Last Name				First Name				Middle Name	
Sex: <input type="checkbox"/> Male <input type="checkbox"/> Female	Race:	Street Address:			City:		State & Zip Code:		
Work Phone:	Home Phone:	Age:	Height:	D.O.B:	Weight:	Armed? <input type="checkbox"/>			
Booking #:	Primary Charge Code:		Secondary Charge Code:			Criminal History <input type="checkbox"/>			
EMT in attendance? <input type="checkbox"/> YES <input type="checkbox"/> NO		Name:		Unit:		Phone #:			
Hospital Admission? <input type="checkbox"/>		Rec'd Treatment At:			Coroner Case #:		Mental History <input type="checkbox"/>		
By Doctor:		Address:			Phone #:				
Under Influence: <input type="checkbox"/> YES <input type="checkbox"/> NO		Substance:			Mental Illness: <input type="checkbox"/>				

S

Suspect Interview									
Date:		Time:		Audiotape: <input type="checkbox"/>		Videotape: <input type="checkbox"/>		Photos of Injuries: <input type="checkbox"/>	

Suspect Information									
Last Name				First Name				Middle Name	
AKA Last Name				First Name				Middle Name	
Sex: <input type="checkbox"/> Male <input type="checkbox"/> Female	Race:	Street Address:			City:		State & Zip Code:		
Work Phone:	Home Phone:	Age:	Height:	D.O.B:	Weight:	Armed? <input type="checkbox"/>			
Booking #:	Primary Charge Code:		Secondary Charge Code:			Criminal History <input type="checkbox"/>			
EMT in attendance? <input type="checkbox"/> YES <input type="checkbox"/> NO		Name:		Unit:		Phone #:			
Hospital Admission? <input type="checkbox"/>		Rec'd Treatment At:			Coroner Case #:		Mental History <input type="checkbox"/>		
By Doctor:		Address:			Phone #:				
Under Influence: <input type="checkbox"/> YES <input type="checkbox"/> NO		Substance:			Mental Illness <input type="checkbox"/>				

☐ Additional Suspects Involved

Supervisor's Report on Use of Force
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Force Applied

Incident Details

I/M Hernandez became combative when he was ordered by Deputy Miller to face the wall. Hernandez spun and delivered an elbow strike to Deputy Miller's rib cage area. Deputy Miller responded by taking Hernandez to the ground and punching him in the face. Hernandez sustained a fractured right wrist as a result of the take down.

Report Use of Force by Involved Employee(s)

Witness Interview(s)

9 1 0 - 0 0 7 3 3 - 5 8 0 0 - 1 4 5

Method

(AW) Arwen	(FH) Firearm (Handgun)	(PO) Personal Weapon (Other)
(BC) Baton: (Control)	(FR) Firearm (Rifle)	(RS) Resistance
(BI) Baton: (Impact)	(FS) Firearm (Shotgun)	(CN) Restraint Device (Capture Net)
(BF) Bodily Fluids	(FO) Firearm (Other)	(RH) Restraint Device (Handcuffs)
(CN) Canine	(FB) Flashbang	(HB) Restraint Device: Hobble (Legs Only)
(CR) Carotid Restraint	(FL) Flashlight	(TP) Restraint Device: Hobble (TARP)
(CH) Choke Hold	(OE) Other Weapon: Edged	(RE) Restraint Device: REACT Belt
(CT) Control Holds: (Control Techniques)	(OV) Other Weapon: Vehicle	(SP) Sap
(TT) Control Holds: (Team Takedown)	(OB) Other Weapon: Blunt Object	(SH) Shield
(TD) Control Holds: (Takedown)	(OO) Other Weapon: Other	(SG) 37mm Stinger
(CE) Chemical	(PK) Personal Weapon: Feet/Leg: (Kick)	(SB) Sting Ball
(OC) Chemical Agents (OC Spray)	(PS) Personal Weapon: Feet/Leg: (Sweep)	(ST) Stun Bag
(TG) Chemical Agents (Tear Gas)	(PH) Personal Weapon (Hand/Arm)	(TR) Taser
(EX) Explosives	(PP) Personal Weapon (Push)	(UC) Uncooperative

Body Part Injured

(AB) Abrasion	(DB) Dog Bite	(PA) Paralysis	(AD) Abdomen	(FA) Face	(HI) Hip
(BR) Bruise	(FR) Fractures	(PW) Puncture Wound	(AK) Ankle	(FE) Feet	(IN) Internal
(BU) Burn	(GS) Gunshot	(SD) Soft Tissue Damage	(AR) Arm	(FI) Fingers	(KN) Knees
(CP) Complaint of Pain	(HB) Human Bite	(ST) Sprain/Twists	(BK) Back	(GE) Genitals	(LE) Leg
(CO) Concussion	(LC) Lacerations	(UN) Unconscious	(BT) Buttocks	(GR) Groin	(NK) Neck
(DH) Death	(ND) Nerve Damage	(RM) Refused Med Treatment	(CH) Chest	(HD) Hands	(NO) Nose
(DI) Dislocation	(OD) Organ Damage	(NN) NONE	(EL) Elbow	(HE) Head	(SH) Shoulder
					(WR) Wrist

[illegible]

**COUNTY OF LOS ANGELES
SHERIFF'S DEPARTMENT**

SIGNIFICANT FORCE INCIDENT EVALUATION

UNIT: Twin Towers Correctional Facility
DATE: May 25, 2010 (Tuesday)
TIME: 1715 hours
LOCATION: 450 Bauchet Street, Los Angeles, CA 90012
URN#: 910-00733-5800-145
IAB#: FO2267633

NATURE OF

INCIDENT: On May 25, 2010, at approximately 1915 hours, Deputy Steven Miller while assigned to the Twin Towers Correctional Facility was involved in a use of force while attempting to subdue a combative inmate. Ultimately, it was determined that the encounter resulted in the inmate sustaining a fractured wrist.

Deputy Miller was escorting Inmate Hernandez from module 172 to the Tower One transfer center because Hernandez was being declassified and rehoused at Men's Central Jail. Once inside the transfer center Deputy Miller separated Inmate Hernandez from the other inmates because Hernandez is a [REDACTED]. Deputy Miller directed Inmate Hernandez to face the wall and Hernandez refused. Deputy Miller repeated his order, again directing Hernandez to face the wall. Hernandez responded by turning to his left and striking Miller in the ribs with his left elbow. Deputy Miller responded to the assault by grabbing Hernandez by his shirt and taking him to the floor. During the takedown Hernandez struck the left side of his face on the floor. While Inmate Hernandez was on the floor he again used his left elbow to try and strike Deputy Miller in the ribs. Fearing he was going to be struck again, Deputy Miller punched Inmate Hernandez in the mouth one time with his right fist. Inmate Hernandez was then handcuffed without further incident.

Inmate Hernandez was treated for a small laceration above his left eye, a small laceration on the left corner of his mouth, and an abrasion on the center of his forehead. During subsequent examination and treatment it was determined that Inmate Hernandez' right wrist was broken, presumably during the controlled takedown effected by Deputy Miller.

INVOLVED PERSONNEL:

Miller, Steven- Deputy, Employee # [REDACTED]

FORCE INCIDENT EVALUATION

IAB # FO2267633

Twin Towers Correctional Facility
Module T-172
Custody Division

EMPLOYEE'S WORK HISTORY:

Date of Employment: 06-28-06
Date Assigned to TTCF: 11-01-06
Prior Shooting Incident(s): [REDACTED]
Prior Founded Force Incidents: [REDACTED]

INVOLVED SUSPECT (S):

Hernandez, Marcos MH/30, Booking #2337334
DOB: 02-11-80
[REDACTED]

Booking Charges: 459 P.C.
CII: [REDACTED] Main#: [REDACTED]

Involved Suspect Criminal History:

Suspect Hernandez's criminal history consists of [REDACTED]
[REDACTED]

CCHRS printout included in this review. (Refer to Exhibit B)

INVOLVED DEPUTY WITNESSES:

None

NON-DEPARTMENT WITNESSES:

None

INVOLVED EMPLOYEE STATEMENTS:

Deputy Steven Miller, # [REDACTED] was interviewed on June 9, 2010 by Sergeant Albert Maldonado of the Internal Affairs Bureau. The interview was digitally recorded and transcribed. The following is a summary of the interview.

FORCE INCIDENT EVALUATION

IAB # FO2267633

Deputy Miller said he was assigned to Module 172 when he was tasked with escorting an inmate (Marcos Hernandez) housed in the module and being de-classified, to the Tower 1 transfer center. He noted Hernandez was a documented [REDACTED] and needed to be housed at the Men's Central Jail where he could be segregated from the other inmates. He was escorting him to the transfer center where he would be met by deputies from Men's Central Jail to be escorted.

I.A.B. Note: Deputy Miller said Module 172 houses inmates who are classified as 5150 W.I.C. or who otherwise have a history of mental illness.

Deputy Miller said he instructed Hernandez to place his hands in his pockets then escorted him to the inmate elevator and down six floors to the Tower 1 transfer center. Upon reaching the transfer center he instructed Hernandez to face the wall in front of Tank 1.

Hernandez momentarily faced the wall and became upset, telling Miller the wall was dirty. Deputy Miller said Hernandez immediately spun to his left and struck him with his elbow directly on the chest (left breast area). Deputy Miller said the strike stunned him and he reacted by immediately grabbing Hernandez by the shirt collar, pulling him backward and to his left and taking him to the ground. He said Hernandez used both of his hands in a "push-up" type position to break his fall then landing face first onto the ground from that position. Once Hernandez was on the ground, Deputy Miller said he shouted several verbal commands and tried to subdue Hernandez by kneeling on the right side of Hernandez, who was still on his stomach. He said Hernandez attempted to stand up, turned his head to the left and again attempted to strike him (Miller) by swinging his elbow backward towards him. Deputy Miller, who was trying to apply control holds by grabbing Hernandez's hands, said he reacted by striking Hernandez one time with his right fist on the left side of his face. He said the strike was effective as Hernandez became compliant and submitted to handcuffing.

I.A.B. Note: Deputy Miller said he instructed Hernandez to stand outside of a large empty cell (Tank 1) as he awaited an escort to Men's Central Jail because, as a matter of practice, they like to keep the large cells open for large groups of inmates. They would not be able to use that cell if other inmates arrived as Hernandez needed to be segregated from other inmates. Also, he felt if he had put Hernandez in the cell by himself he would have been missed and forgotten about by the deputies from Men's Central Jail who would be providing the escort. It was his intent to have Hernandez face the wall with his hands in his pockets while they awaited the arrival of the escorting deputies. He said he never asked Hernandez to place his hands on the wall.

Deputy Miller said once Hernandez was handcuffed he radioed for a sergeant to respond. Other deputies responded and assisted him in lifting Hernandez to his feet.

He said he grabbed Hernandez underneath the armpit area and guided him upward as Hernandez used his own power to stand on his feet. He is not sure which deputy (ies) escorted Hernandez to the nurses station to be checked medically.

I.A.B. Note: Deputy Miller said he did not have a Taser assigned to him on this particular day. He added the incident occurred very quickly and although he was carrying O.C. Spray, he did not have an opportunity to deploy it.

DEPARTMENT WITNESS STATEMENTS:

None

NON-DEPARTMENT WITNESS STATEMENTS:

Suspect Marcos Hernandez, was interviewed on May 28, 2010 by Sergeant Albert Maldonado of the Internal Affairs Bureau. The interview was digitally recorded and transcribed. The following is a summary of the interview.

Marcos Hernandez said he was being escorted from the suicide dorm and was ordered by a deputy to face and place his hands against the wall. He noted he was bitten by a dog prior to being incarcerated and sustained dog bite wounds to both hands. He feared if he placed his hands on the wall his wounds would become infected.

I.A.B. Note: Both of Marco's hands had stitches as a result of being bitten by a dog. He said the dog bites occurred prior to being incarcerated but would not elaborate on the circumstances of the incident.

Hernandez said he told the deputy he did not want to place his hands on the wall and the deputy responded by grabbing his shirt by the collar and taking him to the ground. He said he landed face first onto the ground causing a small laceration to his left eyebrow. Once he was on the ground he said the deputy pulled his arms and choked him with both hands while he was still facing the ground. Simultaneously, another deputy (nfd) began pulling and "bending" his legs. He said the deputy also punched him approximately three times on the left side of his face.

Hernandez also mentioned as he was on the ground the deputy continued to choke him. He said he told the deputy he could not breathe and the deputy lifted him back up by his shirt to his feet and placed him near the wall. He was on his feet momentarily then lost consciousness and fell to the ground. The next thing he remembered was waking up and being dragged a few feet by his shirt to the nurses station. Once they were near the nurse's station he was picked up and walked in to be treated by the nurses.

Hernandez added while he was on the ground two other deputies came to assist. One deputy was "bending" his legs while the other deputy was "bending" his arms. He doesn't know who the other deputies were and he was not able to describe their appearance. He said his wrist was not injured prior to this incident and believes his wrist was fractured as the deputy bent his arm backward behind his back.

Hernandez said he never resisted or assaulted the deputy.

SUSPECT'S INJURIES:

The suspect sustained a small laceration above his left eye, a small laceration on the left corner of his mouth, and an abrasion on the center of his forehead. During subsequent examination and treatment it was determined that Inmate Hernandez' right wrist was broken.

DEPUTY PERSONNEL:

None

PHYSICAL EVIDENCE:

No physical evidence was collected at the scene.

INVESTIGATORS OBSERVATIONS:

No observations.

WEAPONS USED BY DEPUTY PERSONNEL:

Personal weapons, hands, feet.

WEAPONS USED BY SUSPECTS:

Personal weapons, hands, feet.

PROPERTY DAMAGE:

None

CRIMINAL INVESTIGATOR and CHARGES FILED:

Investigator: Ed Capifali, # [REDACTED] Detective, Jail Investigations Unit

Court:

Charges Filed: Case is still under investigation

FORCE INCIDENT EVALUATION

IAB # FO2267633

WEATHER CONDITIONS AND LIGHTING CONDITIONS:

The incident occurred in a lighted jail module.